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January 8, 2016

Honorable Charles R. Breyer
United States Courthouse
Northern District of California
450 Golden Gate Avenue
San Francisco, CA 94102

In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation.
MDL 2672

Judge Breyer:

Pursuant to CMO #2 I am hereby applying for a position on the Steering Committee. I am counsel of record in *Di Mauro v. Volkswagen Group of America, et al*, a Montana state wide consumer class action filed in federal court that has been transferred to this MDL. I believe my expertise, past experience, and responsibility for the litigation of complex, scientific and technical issues, particularly in automotive and environmental litigation, will assist the Court and counsel in developing the technical evidence that will be essential to resolve this matter successfully. Because I understand that positions on the Steering Committee will be limited, if I am not chosen, I would appreciate the opportunity to be considered for a position on whatever technical or scientific committee that the Court appoints.

(1) To summarize, my experience in: a.) complex technical and environmental litigation, b.) representing state entities and attorneys general, c.) serving by appointment on state and local environmental regulatory bodies, and d.) representing environmental citizens' groups, would bring a breadth and diversity of expertise and experience that would have great value to a Steering Committee in this case.

Class Actions: In re Exxon Valdez Oil Spill: I was appointed by the PSC as leader of the Science Team and member of the federal trial team to represent thousands of fisherman and Native Alaskans damaged by the Exxon Valdez Oil Spill. As leader of the Science Team I was responsible for marshaling the evidence and experts necessary to prove natural resource injury and fisheries damages and to defend against the scientific evidence presented by defendants Exxon and Alyeska. This required developing expertise in ecology; oil geochemistry, fate, weathering, and toxicology; fisheries biology; avian and wildlife biology and toxicology; nearshore ecosystem dynamics; biological study design; and biostatistics. The federal trial resulted in a punitive damages verdict of \$5,000,000,000 and approximately \$400,000,000 for fisheries losses. (Hon. Russell Holland, D. AK) (My responsibility included taking or defending nearly 80 days of technical depositions, many of which were defended by my counterpart as lead science counsel for Exxon, now Hon. James Selna, CD CA)

Escamilla v. ASARCO: Class action tried to verdict for 500+ property owners in Denver area exposed to heavy metals from cadmium refinery. I was responsible for all science,

including geology, environmental clean up, heavy metals toxicology, and other medical evidence, and the presentation and examination of all related witnesses. (Colorado state court).

Dehne v. Montana Rail Link and Burlington Northern: Class action and individual cases for more than 120 people exposed to chlorine gas after train derailment in Albion, Montana. Responsibility for medical and toxicology issues. (Hon. Donald W. Molloy, D. Mont.).

In re Salish and Kootenai Diet Drug Litigation: Representation of more than 600 Native Americans in class action for exposure to dangerous diet drugs as participants in a tribal health diabetes health program. Responsibility for all medical evaluations and development of medical protocols and damage model for distribution of confidential settlement through a special master and Qualified Settlement Fund. (New Jersey State Court).

Strom v. Boeing: Class action for more than 200 Boeing workers at Seattle facility exposed to electromagnetic field radiation, required learning science of electromagnetic field radiation and health risks. (WD WA, deceased).

Butler v. Delta Airlines: Class action for passengers on a Delta flight exposed to toxic fumes as a result of electrical fire in flight. Responsible for technical aspects of liability and development of a class wide damages model. (Hon. Tena Campbell, D. UT)

Automobile Product Liability Litigation: Jeep CJ5 Rollover Litigation: Member of team of attorneys representing persons injured in rollovers of Jeep CJ5 vehicles. We were among first attorneys to obtain and disclose previously secret Jeep documents to prove Jeep's knowledge of the unreasonably dangerous design of the CJ5. Eventually, the disclosure of these documents led Chrysler/Jeep to remove the CJ5 from the market. (Hon. Paul Hatfield, D.Mont., deceased).

Ford SUV Rollover Litigation: Expertise in vehicle engineering, accident reconstruction, and engineering mechanics gained from CJ5 cases was utilized in subsequent litigation for persons with catastrophic rollover injuries and deaths in Bronco II, Explorer, and, later, Toyota vehicles. (Hon. Donald W. Molloy, D.Mont.).

In other automobile/vehicle product liability cases I have litigated individual defective brake cases, crashworthiness cases, defective occupant protection cases, and fuel fire cases against Fuji Heavy Industries/Subaru, Volkswagen, Toyota, Kawasaki, General Motors, and Chrysler.

Attorneys General/States of Montana and Utah litigation: For 10 years I have represented first the Montana and then the Utah Attorneys General in a number in cases against international pharmaceutical companies for unfair trade practices, consumer protection, and marketing violations, including MDL cases against Merck (Vioxx) (Hon. Eldon Fallon, ED LA, and Special Master Patrick Juneau) and Eli Lilly (Zyprexa)(Hon. Jack Weinstein, ED NY, and Special Master Michael Rozen) and state and federal court cases against Johnson & Johnson/Janssen (Risperdal) and Astra Zeneca (Seroquel).

I also represent the State of Montana in state court litigation against oil companies (BP, Conoco, Exxon) for clean up of hundreds of leaking underground storage tanks.

Other Product Liability Cases: I have litigated numerous additional defective product cases, some that were part of MDL or mass tort litigation, including Dalkon Shield, Sulzer, Zimmer, and Depuy hip implants, asbestos, pesticides, Agent Orange, and toxic hydrocarbons/solvents.

Experience with Environmental Regulation and Litigation: I have served for approximately 20 years —by Montana governor and City-County appointment— to state wide

and local regulatory bodies that have responsibility for administration, regulation, or adjudication of environmental laws, including the Clean Air Act. These include the Governor's NRDA Trustee Resource Council; The Upper Clark Fork River Superfund Citizens' Advisory Council (Chair); The Montana Board of Environmental Review; and the Missoula City-County Health Board and Air Pollution Control Board (Chair).

I have also had a lead or science responsibility in litigation of environmental cases on behalf of private and environmental citizens' groups against pipelines, power lines, dams, and mines under various state and federal laws and for violation of the Endangered Species Act.

(2) Of the current federal judges listed above, those with whom I have worked most closely are Hon. Donald W. Molloy (406-542-7286) and Hon. James Selna (714-338-2848). In terms of the MDL litigation above, I worked most closely with Special Master Patrick Juneau (337-205-0352) for Judge Fallon (504-589-7545) (Vioxx) and Special Master Michael Rozen (212-527-9600) for Judge Weinstein (718-613-2520) (Zyprexa).

(3) I am willing and able to immediately commit to time-consuming litigation. (4) I am willing and able to work cooperatively with other plaintiffs' counsel and defense counsel. Most of the major cases described above required dedicated work as a member of a lawyer team and I believe they will confirm that I have worked successfully with many of the law firms now seeking leadership in this case. For more than 25 years I also have had a leadership position on the governing boards of the American Association for Justice (AAJ) and Public Justice and have worked with many of these firms in that capacity. (5) I have access to resources to prosecute the litigation in a timely manner. (6) I am willing to serve as a member of a steering committee. (7) Although I personally represent vehicle owners, if appointed to the steering committee I would willingly take the responsibility for representing all plaintiffs.

(8) I believe this MDL has a number of important and unique aspects that should be considered in the appointment of leadership and a steering committee. In two of these I believe I am very well qualified to serve a leadership role. First, although Volkswagen initially admitted its responsibility for fraud in the marketing of its "Clean Diesel" vehicles it is already apparent that the resolution, or fix, for these defective vehicles is going to be technically complicated and likely disputed. As such, developing the evidence needed to move this matter to resolution will require considerable technical expertise. Second, more than any other class action or MDL, the affected vehicle owners are often "expert" and dedicated environmentally aware consumers whose damages may be difficult to quantify-- and satisfy. As an example, my lead Montana plaintiff is the founder and board member of a Montana Clean Air advocacy group.

Under these circumstances I believe my broad and diverse experience, not only in highly complex technical litigation, but also in representing governmental entities and state attorneys general, in serving on governmental regulatory boards, and in representing national and local citizens' groups in environmental litigation would be of great benefit, both in developing the technical evidence and in fashioning a successful resolution that satisfies the victims of this massive fraud.

Thank you for your consideration.

Sincerely,



William A. Rossbach